

Office of the Secretary, Interior

§ 4.1266

tory acts to be advanced and consolidated with the hearing on the application for temporary relief.

§ 4.1204 Determination by administrative law judge.

Upon a finding of a violation of section 703 of the act or 30 CFR 830.11, the administrative law judge shall order the appropriate affirmative relief including, but not limited to—

(a) The rehiring or reinstatement of the applicant to his former position with full rights and privileges, full backpay, and any special damages sustained as a result of the discrimination; and

(b) All other relief which the administrative law judge deems appropriate to abate the violation or to prevent recurrence of discrimination.

§ 4.1205 Appeals.

Any party aggrieved by a decision of an administrative law judge concerning an application for review of alleged discriminatory acts may appeal to the Board under procedures set forth in § 4.1271 *et seq.*

APPLICATIONS FOR TEMPORARY RELIEF

§ 4.1260 Scope.

These regulations contain the procedures for seeking temporary relief in section 525 review proceedings under the act. The special procedures for seeking temporary relief from an order of cessation are set forth in § 4.1266. Procedures for seeking temporary relief from alleged discriminatory acts are covered in § 4.1203.

§ 4.1261 When to file.

An application for temporary relief may be filed by any party to a proceeding at any time prior to decision by an administrative law judge.

§ 4.1262 Where to file.

The application shall be filed with the administrative law judge to whom the case has been assigned. If no assignment has been made, the application shall be filed in the Hearings Division, OHA, 4015 Wilson Boulevard, Arlington, Va. 22203.

§ 4.1263 Contents of application.

The application shall include—

(a) A detailed written statement setting forth the reasons why relief should be granted;

(b) A showing that there is a substantial likelihood that the findings and decision of the administrative law judge in the matters to which the application relates will be favorable to the applicant;

(c) A statement that the relief sought will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources;

(d) If the application relates to an order of cessation issued pursuant to section 521(a)(2) or section 521(a)(3) of the act, a statement of whether the requirement of section 525(c) of the act for decision on the application within 5 days is waived; and

(e) A statement of the specific relief requested.

§ 4.1264 Response to application.

(a) Except as provided in § 4.1266(b), all parties to the proceeding to which the application relates shall have 5 days from the date of receipt of the application to file a written response.

(b) Except as provided in § 4.1266(b), the administrative law judge may hold a hearing on any issue raised by the application if he deems it appropriate.

§ 4.1265 Determination on application concerning a notice of violation issued pursuant to section 521(a)(3) of the act.

Where an application has been filed requesting temporary relief from a notice of violation issued under section 521(a)(3) of the act, the administrative law judge shall expeditiously issue an order or decision granting or denying such relief.

§ 4.1266 Determination on application concerning an order of cessation issued pursuant to section 521(a)(2) or section 521(a)(3) of the act.

(a) If the 5-day requirement of section 525(c) of the act is waived, the administrative law judge shall expeditiously conduct a hearing and render a decision on the application.